

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WISCONSIN LABORERS HEALTH FUND,
BUILDING & PUBLIC WORKS LABORERS
VACATION FUND, and MILES MERTENS,

Plaintiffs,

v.

D & D CONSTRUCTION, LLC,
and DANIEL LAFOND,

Defendants.

ORDER

08-cv-459-bbc

On September 29, 2008, defendant Daniel LaFond filed a document, dkt. #7, in which he contends that he should be dismissed from this action because he did not have any personal involvement in the case. I will construe this document as a motion to dismiss for failure to state a claim under Fed. R. Civ. P. 12(b)(6).

In considering a motion to dismiss for failure to state a claim, the court must accept as true well-pleaded factual allegations, drawing all reasonable inferences in favor of the pleading party. Moranski v. General Motors Corp., 433 F.3d 537, 539 (7th Cir. 2005). In plaintiffs' complaint, they assert that defendant LaFond, acting as defendant D & D

Construction's sole member and officer, failed to make the proper contributions to the plaintiff trust funds in violation of collective bargaining agreements and trust plans and agreements. I cannot consider defendant LaFond's assertion that he was not personally involved in this case because I must accept as true plaintiffs' assertion that he was personally involved in failing to make the proper contributions. Defendant LaFond does not raise any other reason why the claim against him should be dismissed. Therefore I will deny his motion to dismiss.

ORDER

IT IS ORDERED that defendant Daniel LaFond's motion to dismiss, dkt. #7, is DENIED.

Entered this 2nd day of October, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge